



**OREGON DEPARTMENT OF LAND CONSERVATION AND
DEVELOPMENT**

**ORS 195.300 to ORS 195.336 (MEASURE 49) SUPPLEMENTAL REVIEW
OF MEASURE 37 CLAIM
Final Order of Denial**

STATE ELECTION NUMBER: E129466B¹

CLAIMANT: Richard B. and Marleen M. Carroll
10909 S Ridgetop Drive
Molalla, OR 97038

**MEASURE 37 PROPERTY
IDENTIFICATION:** Township 5S, Range 1E
Section 35, Tax lot 100
Section 36, Tax lots 400 and 500
Clackamas County

The claimants, Richard and Marleen Carroll, filed a claim with the state under ORS 197.352 (2005) (Measure 37) on June 6, 2006, for property located at the southeast terminus of S Comer Creek Drive, near Molalla, in Clackamas County. ORS 195.300 to ORS 195.336 (Measure 49) entitles claimants who filed Measure 37 claims to elect supplemental review of their claims. The claimants have elected supplemental review of their Measure 37 claim under Section 7 of Measure 49, which allows the Department of Land Conservation and Development (the department) to authorize up to ten home site approvals to qualified claimants.

This Final Order of Denial is the conclusion of the supplemental review of this claim.

I. ANALYSIS OF CLAIM

A. Qualification Requirements

To qualify for a home site approval under the Section 7 option, a claimant must file an appraisal that establishes the reduction in the fair market value of the property as required by Section 7(6) of Measure 49. The appraisal must be filed with the department or with the county if the claim is being processed by the county, within 180 days after the date the claimant files the election to obtain relief under Section 7 of Measure 49.

¹ Claim E129466 has been split into two claims, E129466A and E129466B, because the Measure 37 claim sought relief for four non-contiguous parcels. Claim E129466A addresses the claimants' eligibility for Measure 49 relief on tax lot 1100 and E129466B addresses their relief on tax lots 100, 400 and 500.

Findings of Fact and Conclusions

The claimants, Richard and Marleen Carroll, elected to proceed under the Section 7 option with the state on June 4, 2008. The claimants were required to submit an appraisal by December 1, 2008, within 180 days after the date they filed their election. No appraisal has been received by the department.

Because this requirement has not been met, the claimants are not entitled to any relief under Section 7 of Measure 49, and, therefore, the remaining approval criteria will not be evaluated.

II. COMMENTS ON THE PRELIMINARY EVALUATION

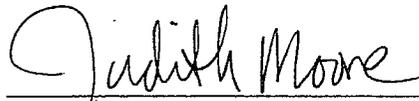
The department issued its Preliminary Evaluation for this claim on February 11, 2010. Pursuant to OAR 660-041-0090, the department provided written notice to the owners of surrounding properties. Comments received have been taken into account by the department in the issuance of this Final Order of Denial.

III. CONCLUSION

Based on the analysis above, the claimants do not qualify for any Measure 49 home site approvals. The claimants did not submit an appraisal within 180 days after the date they filed their election as required by Section 8(5) of Measure 49.

IT IS HEREBY ORDERED that this Final Order of Denial is entered by the Director of the Department of Land Conservation and Development as a final order of the department and the Land Conservation and Development Commission under ORS 197.300 to ORS 195.336 and OAR 660-041-0000 to 660-041-0160.

FOR THE DEPARTMENT AND THE LAND
CONSERVATION AND DEVELOPMENT
COMMISSION:



Judith Moore, Division Manager
Dept. of Land Conservation and Development
Dated this 27th day of April 2010

NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF

You are entitled, or may be entitled, to judicial remedies including the following:

1. Judicial review is available to anyone who is an owner of the property as defined in Measure 49 that is the subject of this final determination, or a person who timely submitted written evidence or comments to the department concerning this final determination.
2. Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 must be filed in the Circuit Court in the county in which the affected property is located. Upon motion of any party to the proceedings, the proceedings may be transferred to any other county with jurisdiction under ORS 183.484 in the manner provided by law for change of venue.
3. Judicial review of this final determination is limited to the evidence in the record of the department at the time of its final determination. Copies of the documents that comprise the record are available for review at the department's office at 635 Capitol St. NE, Suite 150, Salem, OR 97301-2540. Judicial review is only available for issues that were raised before the department with sufficient specificity to afford the department an opportunity to respond.